

### REMARKS

Upon entry of the above amendments, the subject application will contain independent claim 28 and dependent claim 29. This amendment is being filed in response to an Advisory Action dated August 18, 2005 which indicated that claims 27 and 29 were rejected. However, claim 28 was objected to as being dependent on a rejected claim, but would be allowable if rewritten in independent form. To that end, the Applicant has cancelled independent claim 27 without prejudice for possible submission in a continuing application, has rewritten claim 28 in independent form, and has amended dependent claim 29 to depend from rewritten independent claim 28. In view of the following amendments and remarks, the Applicant respectfully requests entry of this amendment and further consideration and allowance of pending claim 28 and 29.

#### Objection to the Specification under 37 CFR 1.75(d)(1)

The specification was objected under 37 CFR 1.75(d)(1) and MPEP 608.01(o) as allegedly failing to provide antecedent basis. The requirement in this regard is that "the claims must find clear support or antecedent basis in the description." 37 CFR 1.75(d)(1). As explained in the previous office action response, the amendments to claim 27 are clearly supported by the specification as it stands, particularly in view of page 24, lines 3-15 (paragraphs [0074]-[0076] as published) and FIGS. 13-16. With that support, the above-noted requirement of Rule 75 has been met, and no further amendments to the specification are believed to be necessary.

Nevertheless, so as to leave no doubt, the specification has been amended as identified above. The text of the specification as filed clearly describes and enables cutting of cortical bone on an interior portion of the vertebrae, within the peripheral boundaries of the vertebrae. Page 16, lines 13-14 of the specification as filed (paragraph [0050] as published) further notes that the implant can be located "approximately in the middle of the vertebra body". Figures 13-16 show insertion of an implant in an intervertebral space so that the ends of the implant are within the peripheral boundaries of the vertebrae. No new matter has been added.

Consequently, in view of the original text and the amendments made herein, the Examiner is respectfully requested to withdraw the objection to the specification.

**Claims 27-29**

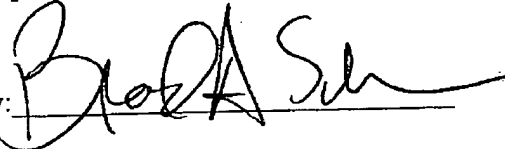
As indicated above, the Advisory Action dated August 18, 2005 rejected independent claim 27 and dependent 29. However, dependent claim 28 was objected to as being dependent on a rejected claim, but would be allowable if rewritten in independent form. To that end, the Applicant has cancelled independent claim 27 without prejudice for possible submission in a continuing application, has rewritten claim 28 in independent form, and has amended dependent claim 29 to depend from rewritten independent claim 28.

CONCLUSION

In conclusion, entry of the above amendments and consideration of the following remarks are respectfully requested. In view of the foregoing amendments and remarks, it is respectfully submitted that the Applicant's application is now in condition for allowance with pending claims 28 and 29.

Reconsideration of the subject application is respectfully requested. Timely action towards a Notice of Allowability is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the subject application.

Respectfully submitted,

By: 

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